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ABSTRACT

This paper examines the contributions of Charles Pinckney III to the U.S. Constitution. When the minutes of the Constitutional Convention were released 30 years after the convention, the Pinckney Plan had been lost. The Secretary of State, John Quincy Adams, who had opened the minutes, asked Pinckney to submit his draft for publication. Pinckney had several drafts of the plan that he had proposed. He sent one copy to Adams, and that copy was also published in the Journal of Convention (1819). It received wide acceptance as being genuine. While 16 of the original members were living in 1818, James Madison was the only one to question the validity of the draft. Charles Pinckney favored dividing the powers of the government into legislative, executive, and judicial branches and ensuring that governmental powers would operate directly upon the people and not upon the states. Approximately 28 provisions of the Constitution can be connected to the Pinckney Plan submitted to the convention May 29, 1789. (SM)

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THE RAPE OF THE PINCKNEY PLAN

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The Rape of the Pinckney Plan

Charles Pinckney III, born into luxury, impeccably educated, meticulously trained in law, undaunted statesman, respected and revered in the state of South Carolina, was denied the one thing he obviously desired and deserved in life, to be created with his contributions to the United States Constitution. Why has this major gift of brilliance, toward the betterment of our great nation, been shrouded in such mystique? Perhaps a closer examination of the circumstances will help to clarify the situation.

There is a distinct possibility that Charles Pinckney was the first man in America to recognize the ineffectiveness of the Articles of Confederation and to be cognizant of "the necessity of proceeding de novo of a division of the powers of government into legislative, executive, and judicial, and of making the government to operate directly upon the people and not upon the states" (Bethea 1937, 4). He believed in strengthening the central government and was one of the earliest spokesmen for a new convention to change the Articles of Confederation (Lander 1956, 135).

He possessed an instinctive grasp of political governmental matters and the ability to make them clear to the ordinary mind. Pinckney was a genius in the science of government, as well as in the capacity to give practical shape to abstract theories of government (Bethea 1937, 17).

Charles Pinckney was deeply absorbed in the study of history and philosophy of government. He catalogued, analyzed and redrafted forms and systems of government of many lands (Bethea 1937, 35). It has been reported that his own private library contained "20,000 volumes of most rare and choice books collected from every part of the continent and in

every known language" (Bethea 1937, 36).

Noteworthy researchers, from varied periods, have felt that Charles Pinckney should have more credit for the Constitution than any other man in America. Supreme Court Justice William Johnson thought Charles Pinckney "more than any other member or man" should be deemed the "author of the Federal Constitution". Johnson conveyed these sentiments to Pinckney and others, particularly members of the Supreme Court. The role of Charles Pinckney has not been fittingly appraised, while James Madison's role has been overemphasized. Madison it must be remembered is the alleged Father of the Constitution (Ulmer 1958, 225 and 227).

One of the most significant discoveries relating to Charles Pinckney's contributions is one made by Andrew McLaughlin who discovered among James Wilson's papers a manuscript which he said is undoubtedly an outline of a constitution presented to the Constitutional .Convention by Charles Pinckney May 29, 1787. Wilson was a member of the Committee of Detail (Bethea 1937, 49-50).

Hannis Taylor's Origin and Growth of the American Constitution, 1911, reveals that only Hamilton and Pinckney formulated finished plans before the Convention met and that the Pinckney Plan was the most important plan presented to the Convention (Ulmer 1958, 235).

One can say with reasonable freedom of doubt that at least twenty-eight provisions of the Constitution can be traced directly to the Pinckney Plan submitted to the Convention May 29, 1787. The other resolutions referred to the Committee of Detail do not contain a single one of the Pinckney provisions before its report on August 6. All of these are found in the manuscript of the Pinckney Plan in James Wilson's handwriting. Twenty-three of the twenty-eight are described in Pinckney's "Observations", and twenty-four of them are found in his 1818

draft. Therefore, Pinckney's claim to them appears to be legitimate (Ulmer 1958, 241).

Thirteen additional clauses may be added with considerable sureness in the Pinckney Plan. Forty-three of the vital parts of the constitution were presumably contributed in part or while by Charles Pinckney. This conclusion was arrived at without relying upon Pinckney himself (Ulmer 1958, 244-245).

C. C. Nott and Hannis Taylor believed Charles Pinckney's 1818 draft to be substantially the same as his original plan (Ulmer 1958, 245). They have credited Pinckney with having "suggested some thirty-one of the thirty-two of the final provisions embodied in the Constitution". These findings should most assuredly establish Pinckney's place in history (Bethea 1937, 64).

There are other evidences to support the position of Nott and Taylor. Charles Pinckney spoke more than 100 times during the convention (Lander 1956, 154). He, furthermore, proposed May 29, 1787, the establishment of a committee to oversee the minutes. Had this proposal been adopted, we would today know more about the input of each of the delegates. "Missing" or "lost" records would not be a present-day concern (Bethea 1937, 81).

Certainly imperfect and unsatisfactory records of the Convention were kept. There was also the cloak of secrecy for thirty years and unbelievably, and unfortunately, the loss of the Pinckney Plan (Bethea 1937, 38).

When the records of the Constitutional Convention which had been placed under seal, were formally opened by the Secretary of State, John Quincy Adams, in 1818, the Pinckney Plan was missing; whereupon, Mr.

Adams asked Mr. Pinckney to submit his draft for publication (Nott 1908, 4). Pinckney told Adams, "I have found several drafts of the Constitution I proposed to the Convention,... All substantially the same," and, "at the distance of nearly thirty-two years it is impossible for me to say which of the four or five draughts I have was the one. But enclosed I send you the one I believe it was" (Bethea 1937, 45).

The Pinckney Plan vanished during the time it was assigned to the Committee of Detail and the publication of the Journal of the Convention. Pinckney's draft was published in the Journal in 1819. It received wide acceptance as being genuine (Ulmer 1958, 227).

At this point, does the green goddess of jealousy begin to rear her head as she obviously did during the days and months of the Convention in 1787? Did envy, bias, and prejudice by certain "gentlemen" wish to not grant the worthy South Carolinian his rightful place in history as Bethea has suggested?

James Madison claims that after thirty years, Pinckney conceived that the plan reported by the Committee of Detail was his own. Would Pinckney think an interlined printed draft his own original draft (Ulmer 1958, 233)?

In 1830, six years after the death of Charles Pinckney, James Madison began accusations against the validity of Pinckney's 1818 draft. Careful examination has not borne out these charges (Ulmer 1958, 227-228).

Madison's personal interest taints his objectivity as a critic in the matter. "Madison is an effective advocate, but no man rightly can be a judge in his own case, particularly a man who was prone to contradict himself and to shift positions quickly at the command of expediency" (Ulmer 1958, 245).

Sixteen of the original members were living in 1818; yet, only one, James Madison, questioned the validity of the draft. His questioning occurred eleven years after publication of the plan and six years after Pinckney's death when he could not defend himself (Ulmer 1958, 246). Such an approach is incomprehensible.

Charles Pinckney, in 1821, wrote a letter to Col. Robert Y. Hayne relating Mr. Rufus King's congratulating him on that - "I had been not only the first, but the only member that had ever submitted a complete Plan to the Convention, and as the Constitution as adopted was more than three fourths of it in the very words of my plan that therefore the Journal now proved and proved incontestably that I had an ought to have more credit for the first thought and first plan and therefore for the Constitution itself than any other many in America" (Ulmer 1958, 230).

Pinckney, himself, made an uncontested claim to the House of Representatives February 13, 1821, that he presented the only complete draft of the constitution in articles and sections (Ulmer 1958, 230).

Why does this controversy remain? Perhaps Pinckney's youth is a factor. He was only twenty-nine when the Constitutional Convention met, which might have alienated him from some of his elders. Working alone, his plan bore his name, rather than that of his state. The record keeping of the Convention left a lot to be desired. And, South Carolina should have played a more careful role in the writing of history (Bethea 1937, 120).

There is also the possibility that the Pinckney draft became a "printer's copy" after corrections, deletions, amendments, and retentions. It possibly was destroyed because of secrecy, sheer obtuseness, and/or carelessness by the printer (Bethea 1937, 48-49).

In addition to Pinckney's acknowledged contributions to the Constitution, he earlier had proposed amendments to the Articles of Confederation which were later incorporated into the Federal Constitution (Bethea 1937, 31).

Among the four South Carolina delegates to attend the Constitutional Convention, Charles Pinckney, the youngest within the delegation, was chosen to open the debate on ratification and for delivering the principal remarks as to why and how the constitution was framed, and of interpreting the reasons for the inclusion of many of the provisions (Bethea 1937, 85).

Charles Pinckney III was born and died in the "eternal city" of Charleston, South Carolina. His life spanned sixty-seven years 1757-1824 of dedication to the acquisition of knowledge and to the sharing of his brilliance in service to mankind. Frances Brewton and Charles Pinckney II were his parents (Bailey and Cooper 1981). He was married to Mary Eleanor Laurens, daughter of Henry Laurens, April 27, 1788 (Williams 1978, 183), to them were born three children Frances Henrietta, Henry Laurens, and Mary Eleanor.

In this the Bicentennial of the Constitution, let all Americans give credit where credit is due. To the memory of Charles Pinckney III, may we at long last bestow upon him the much-deserved title of Father of the Constitution.

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